



# Department of Justice

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## **JUSTICE DEPARTMENT ADVISES FCC ON SBC'S PENDING APPLICATION TO PROVIDE LONG DISTANCE SERVICES IN ARKANSAS AND MISSOURI**

### **Department Raises Questions on Several Important Issues**

**WASHINGTON, D.C.** - The Department of Justice today advised the Federal Communications Commission (FCC) that although SBC has made significant progress toward opening local telephone markets in Arkansas and Missouri, several important issues remain unresolved. These issues prevent the Department from supporting SBC's joint application to provide long distance services in those states on the basis of the current record. The Department noted, however, that the FCC may be in a position to approve SBC's applications by the close of these proceedings in the event that it can assure itself the remaining questions have been answered.

The Department provided its competitive analysis in an evaluation of SBC's joint application to provide long distance services in Arkansas and Missouri under Section 271 of the Telecommunications Act of 1996.

In its evaluation, the Department highlighted two issues:

- The FCC should review the prices SBC charges for use of elements of its network in Missouri to ensure that these prices are appropriately forward looking; and
- The record does not yet demonstrate that SBC has adequately resolved problems with its maintenance and repair systems so that competitors operating in Arkansas and Missouri have sufficient electronic access to them.

In addition, the Department's evaluation raised concerns because SBC may not be subject to appropriate post-entry performance oversight and enforcement in Arkansas. Ensuring that competitors in Arkansas have access to timely and effective enforcement of performance provisions and remedies would be in the public interest.

"This joint application builds on the record created by SBC's successful applications for Texas, Kansas and Oklahoma. However, important issues remain unresolved," said Charles A. James, Assistant Attorney General in charge of the Department's Antitrust Division.

SBC first sought permission to provide long distance services in Missouri in April 2001. In its evaluation of that application, the Department raised competitive concerns primarily about the prices at which SBC offered unbundled network elements. On June 7, 2001, SBC withdrew that application. On August 20, 2001, SBC filed the current application after reducing some of its rates.

Since the break-up of the integrated Bell system as part of the AT&T divestiture, the independent Bell Operating Companies, or BOCs, have been barred from providing long distance services in their respective regions, first as part of the divestiture decree, and now under the terms of the Telecommunications Act of 1996. Under Section 271 of the Act, a BOC, such as SBC, may not provide in-region long distance services until it demonstrates to the FCC that it has met a variety of legal requirements designed to open the local telecommunications markets in a particular state to competition.

In considering whether to approve a BOC's application for long distance authority in a particular state, the FCC must consult with the Department of Justice and give "substantial weight" to its assessment of competitive conditions and whether the BOC should be allowed to provide in-region long distance service.

SBC filed its application with the FCC on August 20, 2001. Under the terms of the Act, the FCC must approve or deny the application within 90 days. A copy of the Department's evaluation will be available at: <http://www.usdoj.gov/atr/public/comments/sec271/sec271.htm>

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